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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,360	07/27/2001	David A. Kraft	A148 1603	9869

112 7590 08/09/2006

ARMSTRONG WORLD INDUSTRIES, INC.
LEGAL DEPARTMENT
P. O. BOX 3001
LANCASTER, PA 17604-3001

EXAMINER

RHEE, JANE J

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/917,360

Applicant(s)

KRAFT ET AL.

Examiner

Jane Rhee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27,30-33,37-42,44-47 and 49-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27,30-33,37-42,44-47,49-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Rejections Withdrawn

1. The 35 U.S.C. 112 2nd paragraph of claims 27,31-33,40 has been withdrawn due to applicant's amendment filed on 5/30/2006.
2. The 35 U.S.C. 102(b) rejection of claims 27,31-33,40 anticipated by Karzmer has been withdrawn due to applicant's amendment filed on 5/30/2006.
3. The 35 U.S.C. 103(a) rejection of claims 30,36,41,44,46 over Karzmer in view of Marquez has been withdrawn due to applicant's amendment filed on 5/30/2006.
4. The 35 U.S.C. 103(a) rejection of claims 37-39,42,45,49-51, over Karzmer in view of Webster's new world dictionary has been withdrawn due to applicant's amendment filed on 5/30/2006.

New Rejections

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 27,30-33,40-41,44,46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karzmer in view of Marquez (6387013).

As to claims 27 and 40, Karzmer discloses comprising two pattern resilient sheet elements having substantially the same structure (figure 7 number S), each element comprising a first major surface and a second major surface (figure 7 number S), and a

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gluing surface interposed between the first major surface and the second major surface (col. 4 lines 45-49), the gluing surfaces of the two elements being adjacent (figure 7 number S), and an adhesive interposed between the gluing surfaces (col. 4 lines 45-49), and a seamless resilient wear layer that covers substantially the entire surface covering, including the two elements and the seam formed by the adjacent gluing surfaces and the adhesive. (figure 7 number 27). As to claims 31-33, Karzmer discloses that the adhesive is a radiation curable, UV curable adhesive such as cyanoacrylate (col. 4 lines 42).

Karzmer fail to disclose wherein the surface covering is in the form of a roll with the seam being in a cylindrical body having an axis generally coincident with the axis of the roll, and the thickness of the seam being substantially no greater than the thickness of the elements.

Karzmer teaches that the gluing surfaces and adhesive forms a seam (figure 7 number S). Karzmer fail to disclose that the flooring sheet is in the form of a roll wherein the seam is perpendicular or parallel to the roll.

Marquez teaches a rolled rubber flooring for the purpose of providing a compact storage structure (col. 4 lines 303-31).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Karzmer with the flooring sheet that is in the form of a roll wherein the seam is perpendicular or parallel to the roll in order to provide a compact storage structure as taught by Marquez.

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6. Claims 37-39,42,45,49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karzmer in view of Webster's new world dictionary.

Karzmer discloses the surface covering described above. Karzmer fail to disclose a scarf joint wherein no portion of the gluing surfaces is perpendicular to the first major surface.

Webster's new world dictionary teaches that scarf joints are made by notching, grooving, or otherwise cutting the ends of two pieces and fastening them so that they lap over and join firmly into one continuous piece (col. 2, definition of scarf²).

Therefore, it would have been obvious to one ordinary skill in the art at the time applicant's invention was made to provide Karzmer with a scarf joint wherein no portion of the gluing surfaces is perpendicular to the first major surface since scarf joints are stronger joints than butt joints because of its larger bonding area.

Response to Arguments

7. Applicant's arguments filed 5/30/2006 have been fully considered but they are not persuasive.

In response to applicant's argument that strips are not the same as sheets, a strip reads on the definition of a sheet. A long narrow piece of material, which is considered a strip, can have a portion of something that is thin in comparison to its length and breadth.

In response to applicant's argument that Karzmer does not disclose patterned resilient sheet elements, Karzmer discloses tread tires as the resilient sheet elements (col. 2 line 38). Tire treads are patterned.

In response to applicant's argument Karzmer fails to teach a seamless resilient wear layer, Karzmer teaches a seamless wear layer in figure 7 number 27. The carpet layer is considered the seamless wear layer.

In response to applicant's argument that it is impossible to roll the elongated section of flooring material of Karzmer with seams parallel to the axis of the roll, because the circumference would be less than twelve or eighteen inches, the flooring material of Karzmer is a square piece of material (12"X12" col. 2 line 4), so either if the seams are parallel or perpendicular to the axis of the roll, the floor mat disclosed by Karzmer can be rolled.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Karzmer and Marquez disclose rubber mats.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jane Rhee
August 1, 2006



PATRICK JOSEPH RYAN
SUPERVISORY PATENT EXAMINER